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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,808	02/08/2002	Ashok Kumar Shahi	033166-017	8876

7590

08/11/2003

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EXAMINER

HWU, JUNE

ART UNIT

PAPER NUMBER

1661

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application N .

10/067,808 .

Applicant(s)

SHAH ET AL.

Examiner

June Hwu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

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### **DETAILED ACTION**

The amendment, declaration and sequence filed on July 9, 2003 have been entered. The text of those sections of Title 35, U.S. Code not included in this action can be found in the prior Office action.

### **Drawings**

An Official Draftsman has approved the drawings.

### ***Claim Rejections - 35 USC § 112***

Claim 1 remains rejected under 35 U.S.C. 112, first and second paragraphs with regard to the requirements of 35 U.S.C. 161, 35 U.S.C. 162, 35 U.S.C. 164 and 35 CFR 1.163(a) for the reasons stated in the previous Office Action (paper number 6, pp. 4-8).

The following issues raised in the previous Office Action have not been addressed in the Applicants' response:

- A. The specification does not "particularly point out where the variety of plant has been asexually reproduced". Correction is required.
  
- B. Applicants should set forth in the specification a botanical description of the leaf sheath's length, type, margin, surface texture and color designation with reference from an employed color chart
  
- C. Applicants should set forth in the specification a botanical description of the ligules color designation with reference to an employed color chart.

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D. Applicants should set forth in the specification the sizes of the awn, palea, and lemma.

E. Applicants should set forth in the specification the number of anthers, color designation with reference to an employed color chart of the stigmas and ovaries, and size of the ovaries.

F. Applicants should set forth in the specification the seed size.

Applicants' amendment necessitated the following new grounds of rejection:

G. Page 13, line 2, the recitation "A. Maerzard and M. Reapaul" is incorrectly spelled and should be changed to read -- A. Maerz and M. Rea Paul --.

H. Page 13, lines 15, the recitation "The color is light brown, 1E18" does not appear to correspond with Methum Handbook of Colours. The color appears close to gray, if accurate. Applicants should check for accuracy.

I. Page 14, line 9, the recitation "Plate 7, Row 10 of 'A Dictionary of Color'" is unclear because applicants have not disclose which color (columns A, C, E, H, J, or L). Clarification and correction are necessary.

### **Conclusion**

No claim is allowed.

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

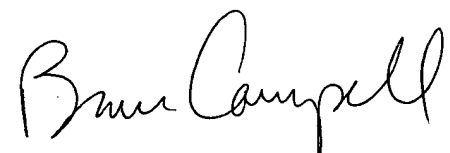
#### **Future Correspondence**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to June Hwu whose telephone number is (703) 308-5017. The Examiner can normally be reached Monday through Friday from 6:30 a.m. to 5:00 p.m. and off on Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bruce Campell, can be reached on (703) 308-4205. The fax numbers for the group are Before Final (703) 872-9306, After Final (703) 872-9307, and Customer Service (703) 872-9305.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service Center whose telephone number is (703) 308-0198.

JH



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